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| <b>BOARD OF APPEALS CASE NO. 4895</b>         | * | <b>BEFORE THE</b>                    |
| <b>APPLICANT: Forest Valley Station LLC</b>   | * | <b>ZONING HEARING EXAMINER</b>       |
| <b>REQUEST: Variances for an existing</b>     | * | <b>OF HARFORD COUNTY</b>             |
| <b>non-conforming sign; 104 Forest Valley</b> | * |                                      |
| <b>Drive, Forest Hill</b>                     | * |                                      |
|   | * | <b>Hearing Advertised</b>            |
|   | * | <b>Aegis: 2/17/99 &amp; 2/24/99</b>  |
| <b>HEARING DATE: April 14, 1999</b>           | * | <b>Record: 2/19/99 &amp; 2/26/99</b> |

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Forest Valley Station LLC, appeared before the Hearing Examiner requesting a variance, pursuant to Section 219-17 of the Harford County Sign Code, to relocate an existing non-conforming sign on the subject property with less than the required front yard setback of 25 feet for a proposed Integrated Community Shopping Center sign and a variance pursuant to Section 219-13(C)(1)(g)[1] of the Harford County Sign Code to exceed more than one square foot in area for each foot of road frontage, and to exceed the 40-foot height limitation in a B2, Community Business District.

The subject property is designated as Map 40, Parcel 418 on Grid 3E on the records of the State Department of Taxation and Assessments. The subject property is zoned B2, General Business District and has been approved as an Integrated Community Shopping Center.

William Fleischer, one of the members of Forest Valley Station, LLC, testified. Mr. Fleischer stated that the Applicant was requesting permission to relocate the existing foot non-conforming sign, approximately 600 square feet in size, advertising the Harford Village Apartments located on the subject property to the new location as shown on the site plan. The apartments are owned by an entity in which Mr. Fleischer owns an interest and consist of 180 units located on adjoining property. The existing sign must be removed in order to develop the subject property as an ICSC. The apartments have no frontage on MD Route 24. Mr. Fleischer explained that without signage advertising the apartments on Route 24, motorists will be unaware of the location of the apartments.

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Mr. Fleischer testified that the existing sign and the new sign proposed for the ICSC will be combined into one proposed new sign as shown on the site plan and the sign rendering. The top portion of the sign will advertise the apartments, with the remaining portion of the sign advertising uses conducted as a part of the approved ICSC on the subject property. The sign will be much smaller and more attractive than the existing non-conforming sign.

Mr. Fleischer stated that the sign could not be made smaller, reduced in height or moved further back from MD Route 24 without adversely affecting its visibility to motorists traveling on Route 24.

Denis Canavan, an expert land planner also testified. Mr. Canavan stated that in his opinion, the property had exceptional circumstances which justified the requested variances. He noted that the subject property has been used as a site for a sign advertising the apartments for many years. The apartments are located on an adjoining property with no frontage on Route 24. No other reasonable means of advertising the apartments to motorists traveling on Route 24 exists. The sign will be smaller and more attractive than the existing sign which is allowed by law to remain. Approving the Applicant's request would result in an overall reduction of signs on the subject property. He testified that granting the Applicant's request would be consistent with the purpose of the Sign Code and cause no adverse impact.

No protestants appeared in opposition to the Applicant's request. The Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

"The proposed location of the sign would not cause any adverse impacts to adjacent properties or materially impair the purpose of the Code. The sign is proposed to be larger and higher than allowed for an integrated community shopping center. The sign area would accommodate the relocation of the existing non-conforming sign, plus the sign area needed for the integrated community shopping center. However, the proposed sign will encompass less area than the existing non-conforming sign."

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### **CONCLUSION:**

The Applicant is requesting a variance from the provisions of Section 219- 17 of the Sign Code, which provides:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

Section 219-16(A) pertains to non-conforming signs and provides:

“All signs or other advertising structures lawfully in existence upon the effective date of this chapter which do not conform to the requirements of this chapter shall constitute nonconforming signs. Nonconforming signs are permitted to exist, except that they may not be structurally altered or relocated unless there is compliance with the provisions of this chapter.”

Section 219-13(C)(1)(g)[1] provides as follows:

“Freestanding signs identifying integrated community shopping centers.

Freestanding signs identifying integrated community shopping centers shall be allowed, but the maximum sign area shall be determined independently from the sign area restrictions contained in §219-5(B). Freestanding signs shall not exceed one square foot in area for each foot of road frontage or four hundred square feet, whichever is smaller. One such sign shall be permitted for each road frontage, or not more than two signs shall be permitted along any frontage which exceeds five hundred feet. The sign height shall not exceed forty feet and shall be set back not less than twenty feet from the front property line.”

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Based on the testimony provided by the Applicant, and as set forth in the Staff Report, the Hearing Examiner finds that the subject property has exceptional circumstances unique to it in that it has been the location of a non-conforming sign advertising the apartments for many years and there is no other property available to advertise the apartments which has frontage on Route 24. The evidence showed that there was no other suitable location for the existing sign and that the sign could not be reduced in size, height and setback and still be visible to motorists traveling on MD Route 24. As a result, denial of the variance would cause practical difficulty to the Applicant. The sign would not cause adverse impacts to adjacent properties or materially impair the purpose of the Code. The Sign is proposed to be slightly larger and higher than allowed for an Integrated Community Shopping Center. The area of the sign will accommodate the relocation of the existing non-conforming sign plus the sign area needed for the ICSC; however, the sign will encompass less area than the existing non-conforming sign and reduce the number of freestanding signs on the subject property. Granting the requested variances will not adversely affect adjoining property owners or the purpose and provisions of the Code. The conditions or circumstances described above are unique to the subject property and cause the practical difficulty to the applicant.

Based on the evidence, it is the recommendation of the Hearing Examiner that the requested variance be approved subject to the condition that the Applicant obtain all necessary permits and inspections for the proposed freestanding sign.

Date        **APRIL 29, 1999**

**L. A. Hinderhofer**  
**Zoning Hearing Examiner**